IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO.17620 of 1999

Between:

P. Linga Murthy, S/o. Shankaraiah, 36 years, Occ.Ex-Conductor,
R/o. H.No. 6-458/130, Madhusudhan Reddy Nagar,
H.M.T. Road, Chintal, Hyderabad.

...PETITIONER

AND

1. The Regional Manager, Bhagyanagar Region, APSRTC, Jubilee Bus Station Picket, Secunderabad.
2. The Divisional Manager, Sanathnagar Division, Sanathnagar, Hyderabad.
3. The Depot Manager, APSRTC, Jeedimetla Depot, R.R.District.
4. The Presiding Officer, Labour Court III, Chandralok Complex, M.J.Road, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an appropriate writ or order or orders, more particularly one in the nature of Writ of Mandamus and quash the same as illegal and arbitrary by calling for the record from the Hon'ble IVth Respondent in I.D.No.203 of 1994 by order dated 06.02.1999.

Counsel for the Petitioner: MR.T.V.RAJEEVAN

Counsel for the Respondent Nos.1 to 3: MRS.NANDA R. RAO

Counsel for the Respondent No.4: GP for Labour

The Court made the following:

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO.17620 of 1999

ORDER:

This Writ Petition is filed by the petitioner/workman being aggrieved by the award dated 06.02.1999 passed by the Labour Court III, Hyderabad in I.D.No.203 of 1994, wherein the claim petition filed by the petitioner/workman under Section 2 (A) (2) of (A.P.Amendment Act, 32 of 87 of I.D.Act, 1947) of I.D.Act, 1947 ('the Act' for brevity) was rejected without granting any relief.

It is the contention of the petitioner that he was appointed as a conductor in APSRTC with effect from 29.11.1987 and discharging duties to the utmost satisfaction of all superiors without any complaint. While so, when the petitioner was conducting bus on route No.171 at IDPL Colony, stage No.7, a surprise check was exercised by the checking officials and they noticed some cash and ticket

irregularities. The petitioner was issued with charge sheet. The petitioner submitted his explanation to the charge sheet. Being not satisfied with the explanation, the respondent/management directed for detailed enquiry into the matter. After conducting a detailed enquiry, the disciplinary authority passed an order dated 20.07.1993 removing the petitioner from the services of the Corporation. Aggrieved by the same, the petitioner preferred an appeal before the authorities but the same was dismissed. Therefore, he filed a claim petition under Section 2 (A) (2) of the Act before the Labour Court III, Hyderabad stating that the removal of the petitioner from the service of the Corporation is arbitrary and illegal. The enquiry into the matter was not properly conducted. The findings are perverse. Assuming the charges are proved, the punishment imposed is disproportionate to that of the misconduct alleged. Before the Labour Court, the petitioner did not challenge the validity of domestic enquiry and filed a memo under Section 11-A of the Act. Before the Labour Court, no oral or documentary evidence was adduced on behalf of the workman or the management. However, on behalf of the management, Exs.M1 to M24 were marked. After a detailed consideration of the entire evidence available on record, the Labour Court came to the conclusion that there are no grounds to set aside the removal order passed by the respondent-Management and accordingly, an award

was passed rejecting the claim of the petitioner.

The learned counsel for the petitioner strenuously contended that the Disciplinary Authority as well as the Labour Court came to the conclusion that the main charge as to the cash and ticket irregularities committed by the petitioner was not proved. However, the other allegation that the petitioner assaulted the TTIs who were conducting surprise check is concerned, since there was some evidence, the petitioner was held to be guilty of charges. In fact though it is avered in the proceedings of the disciplinary authority as well as the appellate authority that a police case was registered, but no case was registered and no prosecution has taken place. If really there was anything serious, nothing prevented the management in launching prosecution against the petitioner. From this what is to be culled out is only that there was some altercation between the petitioner and the checking officials, which they have taken so seriously and holding that charges were proved, removed the petitioner from the service of the Corporation. The same is disproportionate with that of the misconduct alleged and therefore, the action of the Corporation is arbitrary and illegal.

Per contra, the learned standing counsel for the

respondent-Management supported the award passed by the Labour Court and contended that neither the disciplinary authority nor the Labour Court has committed any error in coming to the conclusion that the charges are grave in nature and the punishment inflicted on the petitioner is just and proper, though the charges 1 to 3 are not proved.

I have given earnest consideration to the respective submissions made by the learned counsel on either side and perused the award passed by the Labour Court and other material made available on record.

Admittedly, the charges 1 to 3 are not proved even according to the disciplinary authority and also the Labour Court. The altercation took place during the checking of the bus by the checking officials. On the basis of the evidence of the TTIs, the petitioner was held to be guilty of the charges. In the nature of the charge that the TTIs were assaulted by the petitioner, the only evidence of the TTIs cannot be taken into consideration without there being any other independent corroborative oral or documentary evidence. Admittedly, the driver of the bus, who drove it at the time of check, was not examined in the domestic enquiry nor any other passenger was examined in this regard. May be the examination of the passengers may be

difficult in a case like this, but nothing prevented the management from examining the driver of the bus. Sometimes the charges in the domestic enquiry are personal oriented, as such, a charge necessarily needs to be supported by some other independent documentary or oral evidence. In this case, admittedly there is no such evidence let in by the management though it was within their capacity to do so by examining the driver of the bus.

In this view of the matter, I am of the considered opinion that, assuming that the charges are proved in so far the altercation that took place between the petitioner and the TTIs, is concerned, this is not a case where the petitioner ought to have been inflicted with the ultimate punishment of removal from service. The disciplinary authority ought to have imposed some other punishment in view of the fact that the main charge of ticket irregularities were not proved. The Labour Court also did not take this fact into consideration. Therefore, I am of the view that the Labour Court did not exercise its powers under Section 11-A of the Act in considering the fact that the other charges were not proved while imposing punishment, in the circumstances and nature of the misconduct alleged.

The Writ Petition is partly allowed. The award passed by the Labour Court is

modified toread as under.

The respondent-Management is directed to reinstate the petitioner into service afresh as conductor. The petitioner is not entitled for continuity of service, back wages, attendant benefits etc.

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(C.V.RAMULU, J)

30th June 2005

RRB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Thursday, the

Thirtieth day of June Two thousand and five.

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Regional Manager, Bhagyanagar Region, APSRTC, Jubilee Bus Station Picket, Secunderabad.
2. The Divisional Manager, Sanathnagar Division, Sanathnagar, Hyderabad.
3. The Depot Manager, APSRTC, Jeedimetla Depot, R.R.District.
4. The Presiding Officer, Labour Court III, Chandralok Complex, M.J.Road, Hyderabad.
5. Two CCs to GP for Labour, High Court Buildings, Hyderabad (OUT).
6. Two CD copies.